



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

MAY 19 2014

201433027

Uniform Issue List: 408.03-00

T:EP: RA: +1

Legend:

Taxpayer A =

IRA B =

Bank C =

Account D =

Amount 1 =

Dear :

This is in response to a request for a private letter ruling dated February 6, 2014, as supplemented by correspondences dated March 14, 19, 25, 26, April 3, and 10, 2014, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested:

Taxpayer A represents that she received a distribution of Amount 1 from IRA B. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to her responsibility to care for her mother and her mother's deteriorating medical condition which impaired her ability to manage her financial affairs. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Taxpayer A maintained IRA B, an individual retirement account (IRA) under section 408(a) of the Code, with Bank C. On September 13, 2013, Taxpayer A received notice from Financial Institution C that her Certificate of Deposit (CD)

within IRA B was due for renewal. Seeking an investment vehicle offering a higher rate of return, on October 14, 2013, Taxpayer A took a distribution of Amount 1 from IRA B and deposited it into non-IRA Account D, also with Bank C. Taxpayer A represents she intended to rollover the distribution into a higher paying CD within the 60-day period.

Taxpayer A is the primary caretaker for her 100-year old mother. Over the last several years, the health of Taxpayer A's mother has declined and worsened in the period after the distribution. Specifically, during the 60-day rollover period, Taxpayer A's mother became completely sedentary and developed additional serious medical issues. Taxpayer A spent much of her time caring for her mother who required numerous medical visits, physical therapy and surgery care as the result of her medical condition. As a result, Taxpayer A failed to roll over Amount 1 into another IRA within her 60-day rollover deadline. The ruling request is accompanied by letters from Taxpayer A's mother's physicians which describe the medical conditions and the care provided by Taxpayer A during the 60-day rollover period.

Based on the above facts and representations, you request that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d) of the Code, any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if -

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) of the Code does not apply to any amount described in section 408(d)(3)(A)(i) of the Code received by an individual from an IRA if at any time during the 1-year period

ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) of the Code from an IRA which was not includible in gross income because of the application of section 408(d)(3) of the Code.

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and the documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount 1 was due to her responsibility to care for her mother and her mother's worsening medical condition which impaired Taxpayer A's ability to manage her financial affairs during the 60-day rollover period.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to transfer an amount not to exceed Amount 1 into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

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No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact (I.D. # ),  
at ( ) .

Sincerely yours,

*Carlton A. Wathens*

Manager  
Employee Plans Technical Group 1

Enclosures:

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Notice of Intention to Disclose, Notice 437